

E-Filed On 12/14/06

1 **REPLY**
 2 **SUSAN WILLIAMS SCANN, ESQ.**
 3 **Nevada Bar No. 000776**
 4 **PAUL R. CONNAGHAN, ESQ.**
 5 **Nevada Bar No. 003229**
 6 **DEANER, DEANER, SCANN, MALAN & LARSEN**
 7 **720 South Fourth Street, Suite #300**
 8 **Las Vegas, Nevada 89101 (702) 382-6911**
 9 **Attorneys for Plaintiff Binford Medical Developers, LLC**

UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF NEVADA

In re:	)	Case No. BK-S-06-10725 LBR
USA COMMERCIAL MORTGAGE	)	Case No. BK-S-06-10726 LBR
COMPANY,	)	Case No. BK-S-06-10727 LBR
	)	Case No. BK-S-06-10728 LBR
Debtor	)	Case No. BK-S-06-10729 LBR

In re:	)	Chapter 11
USA CAPITAL REALTY ADVISORS, LLC.	)	Jointly Administered Under
	)	Case No. BK-S-06-10725 LBR
Debtor)	

In re:	)	Adversary No. 06-01212
USA CAPITAL DIVERSIFIED TRUST)	
DEED FUND, LLC.)	
)	
Debtor)	

Date of Hearing: **12/15/06**
 Time of Hearing: **9:30a.m.**

In re:	)	Affects:
USA CAPITAL FIRST TRUST)	<input checked="" type="checkbox"/> USA Commercial Mortgage Company
DEED FUND, LLC.)	<input type="checkbox"/> USA Capital Diversified Trust Deed Fund, LLC
)	<input checked="" type="checkbox"/> USA Capital First Trust Deed Fund, LLC
Debtor)	<input type="checkbox"/> USA Securities, LLC
In re:)	<input type="checkbox"/> USA Realty Advisors, LLC
USA SECURITIES, LLC.)	<input type="checkbox"/> All Debtors
)	
Debtor)	

**REPLY IN FAVOR OF AND OPPOSITION TO USA COMMERCIAL MORTGAGE
 COMPANY'S OBJECTION TO MOTION TO TEMPORARILY ALLOW CLAIM OF
 BINFORD MEDICAL DEVELOPERS LLC.**

COMES NOW, Creditor, BINFORD MEDICAL DEVELOPERS LLC, ("Binford") by and through its attorney, SUSAN WILLIAMS SCANN, ESQ. of the law firm of DEANER, DEANER, SCANN, MALAN & LARSEN, and hereby replies to USA Commercial Mortgage Company's Objection to Motion to Temporarily Allow Claim of Binford Medical Developers LLC For voting purposes.

Binford received a Class A-1 Ballot and cast its vote. The question before the Court is whether the claim can be temporarily allowed to count that vote. USA Commercial Mortgage

1 Company ("USACM") filed an objection to Binford's Proof of Claim on December 12, 2006, but
 2 there is still a necessity for the Court to hear this Motion.

3 Although the Opposition does not state the reason why USACM is objecting to the Proof of
 4 Claim, the Objection itself contends that Binford was in breach of the Loan Agreement before
 5 USACM's obligation to fully fund the loan arose. Exhibit "C" to the Loan Agreement, the
 6 Disbursement Schedule, provides that all but \$62,000.00 of the loan proceeds would have been
 7 funded by month seven and all of the loan proceeds by month nine. A copy of that Exhibit is
 8 attached hereto as Exhibit "1" and incorporated by reference herein. The loan began funding in
 9 September of 2005. Accordingly, by April of 2006, all but \$62,000.00 should have been funded.
 10 The remaining \$62,000.00 should have been funded by no later than June, 2006. USACM's
 11 bankruptcy occurred on April 13, 2006. Binford was current on its interest through June 1, 2006.
 12 Copies of USACM's monthly billing summary for the month of April and May of 2006 are attached
 13 hereto as Exhibit "2".

14 As shown by Ken Schmidt's Declaration filed with the original Motion, the failure to fund
 15 the remaining \$925,000.00 has had serious consequences for Binford's project. Binford is every bit
 16 as much a victim in this case as the Direct Lenders. Binford's vote in the estimated amount shown
 17 on its Proof of Claim should be counted.

18 DATED this 14th day of December, 2006

19 Respectfully Submitted,

20 DEANER, DEANER, SCANN,
 21 MALAN and LARSEN

22 By: 

23 SUSAN WILLIAMS SCANN, ESQ.
 24 Nevada Bar No. 000776
 25 PAUL R. CONNAGHAN, ESQ.
 26 Nevada Bar No. 003229
 27 720 South Fourth Street, Suite 300
 28 Las Vegas, Nevada 89101
 Attorneys for Plaintiff
 Binford Medical Developers, LLC

EXHIBIT 1

EXHIBIT "C"

DISBURSEMENT SCHEDULE

All advances after the closing are subject to Section 3.2 of the Loan Agreement. Month "X" means "X" months after closing.

<u>MONTH</u>	<u>TOTAL</u>	<u>INTEREST</u>	<u>DRAWS</u>
Close	\$4,250,000	\$65,000	\$4,185,000
Month 1	\$ 233,200	\$ 0	\$ 233,200
Month 2	\$ 335,200	\$49,000	\$ 286,200
Month 3	\$ 638,949	\$54,000	\$ 584,949
Month 4	\$ 759,899	\$61,000	\$ 698,899
Month 5	\$ 768,899	\$70,000	\$ 698,899
Month 6	\$ 542,999	\$72,000	\$ 470,999
Month 7	\$ 783,854	\$67,000	\$ 716,854
Month 8	\$ 42,000	\$42,000	0
Month 9	\$ 20,000	\$20,000	0
Month 10	\$ 0	\$ 0	0
Month 11	\$ 0	\$ 0	0
Month 12	\$ 0	\$ 0	0
Total	\$8,375,000	\$500,000	\$ 7,875,000

EXHIBIT "2"

May-22-2006 06:25 From-USA Capital



4484 S. Pecos Rd.
Las Vegas NV 89121

T-720 P.003/003 F-672

For questions regarding your statement
please contact us at 1-888-921-8009
or 702-734-2400

Interest Contact
Ken Schmidt
Fax: 317-253-7170

Statement Information

Page Count	1
Statement From - To	5/1/2006 - 5/31/2006
Bill Due Date	6/1/2006
Total Amount Due	\$ 83,398.61

Monthly Billing Summary

Account: Binford Medical Developers					
Current Interest Due	83,398.61	Late Fees	0.00	Extension Fees	0.00
30 Day Late Interest Due	0.00	Exit Fees	0.00		
60 Day Late Interest Due	0.00	Legal Fees	0.00		
90+ Day Late Interest Due	0.00	Service Fees	0.00		

Account Transaction Detail

Transaction Date	Transaction Type	Beginning Balance	Ending Balance	Transaction Amount
Interest Transactions (last 90 days)				
05/11/2006	Interest Payment			81,412.50
04/21/2006	Interest Adjustment			704.17
04/13/2006	Interest Payment			74,858.33
02/27/2006	Interest Payment			61,425.00
Principal Transactions (last 90 days)				
03/29/2006	Fund	\$6,800,000.00	\$7,450,000.00	650,000.00
03/08/2006	Fund	\$6,300,000.00	\$6,800,000.00	500,000.00

Full Account Summary

Account: Binford Medical Developers				
Original Loan Amount	Total Loan Balance	IR%	Total Principal Paid To Date	Total Interest Paid To Date**
8,375,000.00	7,450,000.00	13.00%	0.00	0.00
Account Notes:				

**Total Interest Paid to Date will not be calculated until your next statement, and will only reflect interest payments received from April 1, 2005 on...

*** New Wiring Instructions ***

USA Commercial Mortgage Co.
Bank of America

Routing No. 026009593 Account No. 37555 32396

Reference Loan # 286

Apr-23-2006 19:46

From-USA Capital

T-633 P.001/001 F-562



4484 S. Pecos Rd.
Las Vegas NV 89121

Interest Contact
Ken Schmidt
Fax: 317-253-7170

For questions regarding your statement
please contact us at 1-888-921-8009
or 702-734-2404

Statement Information

Page Count	1
Statement From - To	4/1/2006 - 4/30/2006
Bill Due Date	5/7/2006
Total Amount Due	\$ 81,412.50

Monthly Billing Summary

Account: Binford Medical Developers					
Current Interest Due	81,412.50	Late Fees	0.00	Extension Fees	0.00
30 Day Late Interest Due	0.00	Exit Fees	0.00		
60 Day Late Interest Due	0.00	Legal Fees	0.00		
90+ Day Late Interest Due	0.00	Service Fees	0.00		

Account Transaction Detail

Transaction Date	Transaction Type	Beginning Balance	Ending Balance	Transaction Amount
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04/21/2006	Interest Adjustment			704.17
04/13/2006	Interest Payment			74,858.33
02/27/2006	Interest Payment			61,425.00
01/26/2006	Interest Payment			60,251.39
Principal Transactions (last 90 days)				
03/29/2006	Fund	\$6,800,000.00	\$7,450,000.00	650,000.00
03/08/2006	Fund	\$6,300,000.00	\$6,800,000.00	500,000.00
02/10/2006	Fund	\$5,600,000.00	\$6,300,000.00	700,000.00

Full Account Summary

Account: Binford Medical Developers				
Original Loan Amount	Total Loan Balance	IR%	Total Principal Paid To Date	Total Interest Paid To Date **
8,375,000.00	7,450,000.00	13.00%	0.00	0.00
Account Notes :				

**Total Interest Paid to Date will not be calculated until your next statement, and will only reflect interest payments received from April 1, 2005 on...